



# **West Virginia Senate**

## **Committee on the Judiciary**

### **Minutes for MARCH 02, 2021, 3:00 PM**

Pursuant to the call of the Chair, the Senate Committee on the Judiciary met on March 02, 2021, 3:00 PM in Room 208-W.

Members present: Senators Trump, Weld, Azinger, Grady, Karnes, Maynard, Phillips, Rucker, Smith, Takubo, Woodrum, Beach, Caputo, Lindsay, Romano, Woelfel

Members absent: Senators Stover

A silent roll call being taken, the presence of a quorum was established.

On motion of Senator Weld, the minutes of the previous meeting were approved.

**S. B. 469 - Permitting appearance by video for purpose of notarial act.**

Laura Goins, Counsel, explained the bill, the purpose of the proposed committee substitute, and responded to questions.

With leave of the committee, Donald Kersey, General Counsel, West Virginia Secretary of State's Office, was administered the oath prescribed by Senate Rule 28a by Chairman Trump, addressed the committee, and responded to questions. (See attached oath.)

On motion of Senator Weld, the committee agreed to the committee substitute.

On motion of Senator Weld, the committee reported the committee substitute to the full Senate with the recommendation that it do pass.

**S. B. 439 - Allowing use or nonuse of safety belt as admissible evidence in civil actions.**

Mark Dean, Counsel, explained the bill, the purpose of the proposed committee substitute, and responded to questions.

On motion of Senator Woelfel, the committee amended the committee substitute on page 5, lines 48 and 55, at the end of the sentences, after the word "damages", by inserting ", however that opinion must be supported by expert testimony, subject to a finding by the court that the

testing and methodology supporting the expert testimony satisfies the threshold requirements of Rule 702 of the West Virginia Rules of Evidence.”

On motion of Senator Romano, the committee amended the committee substitute stating that the question of safety belt usage will be inadmissible when the driver at fault was under the influence of alcohol or drugs.

With leave of the committee, Jill Rice, President, West Virginia Insurance Federation, was administered the oath prescribed by Senate Rule 28a by Chairman Trump, addressed the committee, and responded to questions. (See attached oath.)

Senator Woelfel moved to amend the committee substitute stating if the innocent driver or passenger are not wearing their safety belt, and the case is litigated, that the limitation of damages be strictly non-economic such as pain and suffering, loss of enjoyment, etc. and not actual economic and special damages.

With leave of the committee, Lee Mickus, Ford Motor Company and The American Tort Reform Association, was administered the oath prescribed by Senate Rule 28a by Chairman Trump, addressed the committee, and responded to questions. (See attached oath.)

The question being on the amendment offered by Senator Woelfel, the same was put.

The Chair being in doubt, a division of the body was demanded by Chairman Trump.

The vote being 6 in favor and 10 opposed, the amendment was rejected.

Senator Romano moved to amend the committee substitute to exclude admission of seat belt usage when the at fault driver is grossly negligent, willful, or wanton.

The Chair being in doubt, a division of the body was demanded by Chairman Trump.

The vote being 6 in favor and 10 opposed, the amendment was rejected.

On motion of Senator Weld, the committee agreed to the committee substitute as amended.

On motion of Senator Weld, the committee reported the committee substitute to the full Senate with the recommendation that it do pass.

On Motion of Senator Weld the committee adjourned.



Charles S. Trump

Chair



Beverly Douglas

Clerk/Analyst

The Senate of West Virginia



Testimony taken this 2nd day of March, 2021, in  
the Senate Committee on the Judiciary.

"I solemnly swear (or affirm) that the testimony I shall give shall be  
the truth, the whole truth, and nothing but the truth, so help me  
God."

Dennis Kersey

Print Witness Name

D. M. Kersey

Sign Witness Name

Oath was administered by:

Charles S. Trump

Print Member Name

Charles S. Trump

Sign Member Name



The Senate of West Virginia

Testimony taken this 2<sup>nd</sup> day of March, 2021, in  
the Senate Committee on the Judiciary.

"I solemnly swear (or affirm) that the testimony I shall give shall be  
the truth, the whole truth, and nothing but the truth, so help me  
God."

Jim Rice

Print Witness Name

Jim Rice

Sign Witness Name

Oath was administered by:

Charles S. Trump

Print Member Name

Charles S. Trump

Sign Member Name



The Senate of West Virginia

Remote/Virtual Testimony

Testimony taken this 2nd day of March, 2021, in  
the Senate Committee on The Judiciary.

"I solemnly swear (or affirm) that the testimony I shall give shall be  
the truth, the whole truth, and nothing but the truth, so help me  
God."

Lee Mickus

Print Witness Name

Beverly Douglas

Testimony Attested to by Committee  
Clerk

Oath was administered by:

Charles S. Trump

Print Member Name

Charles S. Trump

Sign Member Name